

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

OMAR SEGURA,

Plaintiff,

v.

MALDONADO, *et al.*,

Defendants.

Case No. 1:23-cv-00780-JLT-BAM (PC)

**ORDER DIRECTING PLAINTIFF TO
PROVIDE WRITTEN NOTICE
IDENTIFYING DEFENDANT JOHN DOE 1
FOR SERVICE OF PROCESS**

NINETY (90) DAY DEADLINE

Plaintiff Omar Segura (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On October 3, 2023, the Court ordered that this action proceed on Plaintiff’s first amended complaint against Defendants Cohello and John Doe 1 for excessive force in violation of the Eighth Amendment. (ECF No. 10.) By separate order, the Court has directed service of the complaint on Defendant Cohello.

At this time, the Court does not find service appropriate for Defendant John Doe 1 because the U.S. Marshal cannot serve a Doe Defendant. Therefore, before the Court orders the U.S. Marshal to serve Defendant John Doe 1, Plaintiff will be required to identify John Doe 1 with enough information to locate the defendant for service of process. Once Plaintiff identifies Defendant John Doe 1 for service, he should file a motion to substitute the identity of Defendant John Doe 1 in the complaint. If the motion is granted, the Court will direct the U.S. Marshal to

1 serve Defendant John Doe 1. However, if Plaintiff fails to identify Defendant John Doe 1, then
2 the unidentified defendant will be dismissed from this action.

3 Accordingly, IT IS HEREBY ORDERED as follows:

- 4 1. Within **ninety (90) days** from the date of service of this order, Plaintiff SHALL file a
5 motion to substitute the identity of Defendant John Doe 1 that provides the Court with
6 enough information to locate them for service of process; and
7 2. **The failure to comply with this order will result in dismissal of the unidentified**
8 **defendant from this action, without prejudice, for failure to serve with process**
9 **pursuant to Federal Rule of Civil Procedure 4(m).**

10 IT IS SO ORDERED.
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12 Dated: October 10, 2023

13 /s/ Barbara A. McAuliffe
14 UNITED STATES MAGISTRATE JUDGE
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